

### **REMARKS**

Reconsideration of this Application is respectfully requested.

Upon entry of the foregoing amendment, claims 1-7 and 10-34 are pending in the application, with claims 1 and 4 being the independent claims.

Applicants have amended the independent claims above to now even more clearly demonstrate how Applicants' claimed invention is distinguished from the applied references. These changes are believed to introduce no new matter, and are designed to now even more clearly claim the invention. Entry of the amendments is respectfully requested.

Based on the above Amendment and the following Remarks, Applicants respectfully request that the Examiner reconsider all outstanding objections and rejections and that they be withdrawn.

#### ***Examiner Interview***

Applicant thanks the Examiner for the personal interview of October 25, 2007. Applicant and Applicant's representative explained the commercial system of which the claimed invention is a part, and discussed, in particular, claim 1 and the Monson reference. Applicant discussed amending the claim to clarify the differences between the claim and the reference. Applicant argued that the reference does not configure or reconfigure a plurality of measurement subsystems in real time in response to detected or measured conditions in the subsurface area being sampled. Agreement as to the proposed amendment was not reached, however, the Examiner agreed that the invention as explained and described was not taught by the reference.

#### ***Rejections under 35 U.S.C. § 102***

In the Action on pages 3-4, section 3, claims 1-7, 10-19, 21-22, 26-33 and 34 are rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,887,491 to Monson (hereinafter "Monson"). Applicant respectfully traverses the rejection.

Claim 1, as amended, recites: a mobile enhanced scanning solutions module comprising: a flow control subsystem to control the rate of flow of a carrier gas obtained from an environmental subsurface; a plurality of *measurement subsystems to measure or detect in real time at least one contaminant in said carrier gas*, said plurality of measurement subsystems comprising: a detector

subsystem coupled to said flow control subsystem, a moisture separator subsystem coupled to said flow control subsystem, and a sampling subsystem coupled to said flow control subsystem; wherein said flow control subsystem provides switching, valve control, and rate of flow of said carrier gas in real time among said plurality of measurement subsystems; a global positioning system (GPS) receiver integrated with a mobile data acquisition system configurable to allow geo-referencing of data acquired from at least one of said detector subsystem and/or said sampling subsystem; and a *software control subsystem coupled to said plurality of measurement subsystems and said flow control subsystem, to sense conditions in real time including said measured or detected contaminant, and to at least one of configure or reconfigure said flow control subsystem and/or combinations of said plurality of measurement subsystems in real time, prior to exhaust, including timing, sequencing, monitoring, logging and/or recording data, in response to at least one of said sensed conditions, an operator selection, and/or preprogrammed conditions.* Monson fails to teach at least three elements of claim 1.

First, Monson fails to teach a plurality of measurement subsystems to measure or detect a *in real time at least one contaminant in said carrier gas*. Instead, Monson teaches a data collection system 34 that stores data collected from testing assemblies for subsequent analysis and evaluation. Monson, col. 3, lines 4-6. Monson does not discuss, in relation to any of the testing assemblies, measuring or detecting in real time from a sample of the environmental subsurface. In contrast, in claim 1, contaminants or a chemical or physical parameter from a sample may be measured or detected in real time, while sampling is occurring. Monson is further directed toward “ascertaining soil characteristics which affect plant and vegetation growth,” not toward detection of contaminants. Monson, col. 2, lines 15-16. Therefore, Monson fails to teach a plurality of *measurement subsystems to measure or detect in real time at least one contaminant in said carrier gas*.

Second, Monson fails to teach *software control subsystem coupled to said plurality of measurement subsystems and said flow control subsystem, to sense conditions in real time including said measured or detected contaminant*. Instead, Monson teaches a central controller 30 that initiates operation of the hydraulic system 28 for operating the probe 10 at selected locations based on a predetermined pattern. Monson, col. 3, lines 10-13. The central controller 30 also

operates the various testing assemblies of the probe 10. Monson, col. 5, lines 34-35. There is no discussion in Monson of whether the controller 30 is a **software** control subsystem. Further, as stated above, there is no indication in Monson that the controller 30 senses conditions in real time. Instead, collected data is stored. Therefore, Monson fails to teach or suggest software control subsystem coupled to said plurality of measurement subsystems and said flow control subsystem, to sense conditions in real time including said measured or detected contaminant.

Third, Monson fails to teach *said software control subsystem... to at least one of configure or reconfigure said flow control subsystem and/or combinations of said plurality of measurement subsystems in real time, prior to exhaust, including timing, sequencing, monitoring, logging and/or recording data, in response to at least one of said sensed conditions, an operator selection, and/or preprogrammed conditions*. Even if the controller 30 of Monson is a software control subsystem, there is no teaching or discussion that the controller 30 is operative to configure or reconfigure a flow control subsystem or combinations of the plurality of measurement subsystems in real time, prior to exhaust [of the test sample], in response to sensed conditions, e.g. the detected or measured contaminant. Instead, Monson merely activates or deactivates testing, presumably based on the predetermined pattern of testing. In contrast, in claim 1, the measurement subsystems may be configured or reconfigured, for example, by changing which subsystem or subsystems are being used. See, e.g. FIG. 9C and paragraphs 136-146. Therefore, Monson fails to teach or suggest said software control subsystem... to at least one of configure or reconfigure said flow control subsystem and/or combinations of said plurality of measurement subsystems in real time, prior to exhaust, including timing, sequencing, monitoring, logging and/or recording data, in response to at least one of said sensed conditions, an operator selection, and/or preprogrammed conditions. Accordingly, claim 1 is allowable and Applicant requests that the rejection be withdrawn.

Amended Claim 4 recites elements similar to claim 1 and is allowable for at least the same reasons as given above for claim 1.

Claims 2, 3, 5-7, 10-19, 21-22, 26-33 and 34 depend from either claim 1 or claim 4, and are allowable at least for being dependent from an allowable claim.

***Rejections under 35 U.S.C. § 103***

In the Action on pages 4-5, section 4, claims 20 and 25 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Monson in view of Adriany.

In the Action on pages 5-6, section 5, claim 24 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Monson in view of Robatt.

In the Action on pages 6, section 6, claim 23 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Monson in view of Griffeth. Applicant respectfully traverses these rejections.

Claims 20, 23-25 depend from claim 4, and are allowable at least for being dependent from an allowable claim.

***Conclusion***

All of the stated grounds of objection and rejection have been properly traversed, accommodated, or rendered moot. Applicants therefore respectfully request that the Examiner reconsider all presently outstanding objections and rejections and that they be withdrawn. Applicants believe that a full and complete reply has been made to the outstanding Office Action and, as such, the present application is in condition for allowance. If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, the Examiner is hereby invited to telephone the undersigned at the number provided.

Prompt and favorable consideration of this Amendment is respectfully requested.

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Respectfully submitted,

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